

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

TERRELL L. DICKERSON

PETITIONER

vs.

CASE NO. 4:95CR00021 GH
4:05CV00618GH

UNITED STATES OF AMERICA

RESPONDENT

ORDER

Petitioner was charged in a second superseding indictment filed on May 17, 1995, along with two co-defendants, with a violation of 18 U.S.C. § 2119, car jacking, two counts of a violation of 18 U.S.C. § 924(c)(1), use of a firearm during a crime of violence, a violation of 18 U. S.C. §1951, interference with interstate commerce by robbery, and a violation of 18 U.S.C. § 922(g)(1), being a felon in possession of a firearm. Petitioner pled guilty on January 18, 1996, to Count I (car jacking), Count IV (use of firearm in commission of crime), and Count V (felon in possession of a firearm). He was sentenced on March 29, 1996, to a total of 260 months imprisonment. Petitioner did not appeal. On April 26, 2001, he filed a motion to modify his term of imprisonment, challenging the five level enhancement he received for brandishing a firearm during the commission of a robbery. The Court, on May 23, 2001, denied petitioner's motion.

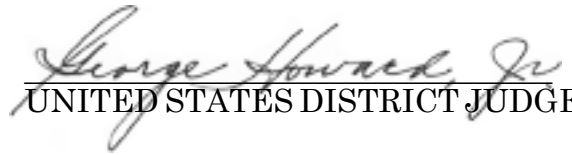
Petitioner has now filed a 28 U.S.C. § 2255 motion to vacate, set aside, or correct sentence. He relies on *Blakely v. Washington*, 124 S. Ct. 2531 (2004) and *United States v. Booker*, 125 S. Ct. 7838 (2005) as a basis for setting aside his sentence.

The government correctly notes that the petition is untimely. Petitioner was

sentenced in 1996; petitioner had until April 24, 1997, to file his petition. *See Moore v. United States*, 173 F. 3d 1131, 1135 (8th Cir. 1999). Furthermore, *Booker* and *Blakely* are not applicable to criminal convictions that became final before *Booker*. *Never Misses a Shot v. United States*, 413 F. 3d 781, 783 (8th Cir. 2005).

Accordingly, the motion to vacate, set aside or correct sentence is hereby denied.

IT IS SO ORDERED this 2nd day of December, 2005.


UNITED STATES DISTRICT JUDGE